



State of Wisconsin
2015 - 2016 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 138**

January 21, 2016 - Offered by Representative LOUDENBECK.

1 **AN ACT** *to repeal* 66.1105 (5) (h) and 66.1105 (5) (i); *to amend* 66.1105 (2) (aj),
2 66.1105 (4m) (a), 66.1105 (4m) (b) 1., 66.1105 (4m) (b) 2. and 66.1105 (5) (a); and
3 *to create* 66.1105 (5) (j) of the statutes; **relating to:** redetermination of base
4 value for certain tax incremental districts.

Analysis by the Legislative Reference Bureau

This substitute amendment repeals the current-law provisions that were created by 2013 Wisconsin Act 183 and creates a different process for redetermining the base value of a tax incremental district (TID) in a decrement situation.

Under current law, following the creation of a TID, the Department of Revenue (DOR) determines the equalized value of the taxable property within the district. This value is referred to as the TID's "base value." Typically, during the TID's lifespan, property values of the property in the TID will rise above the base value, and the portion of taxes collected on the increase in value of property located in the TID will be used to pay back the project costs of the TID.

Current law, as created by 2013 Wisconsin Act 183, addresses the situation where the values of property in a TID do not rise as expected, but instead fall. Under current law as created in that act, a local legislative body of a city or village may, subject to joint review board (JRB) approval, request that DOR redetermine the base value of a TID that is in a "decrement situation" that continues for at least two

consecutive years. A “decrement situation” is defined as a decline in current value of TID property of at least 10 percent compared to the current base value of the TID. A local legislative body may request redetermination of the base value of a TID in a decrement situation once during the lifespan of the TID, and DOR may impose a fee of \$1,000 for the redetermination. Additionally, under the current-law provisions as created by 2013 Wisconsin Act 183, before DOR may carry out a redetermination, the local legislative body must conduct a financial analysis of the TID, and must amend the TID project plan to satisfy at least one of the following conditions:

With regard to the total value of public infrastructure improvement in the district that occurs after JRB approval, at least 51 percent of the value of the improvements must be financed by a private developer or other private entity in return for the city’s or village’s agreement to repay those costs solely through the payment of cash grants, and that cash grants must be paid through a development agreement with the city or village.

All project costs are expected to be paid within 90 percent of the TID’s remaining life.

Expenditures may be made only within the first half of the TID’s remaining life, unless approved by a unanimous vote of the JRB, and are subject to the generally applicable limitations on the timing of expenditures under the tax incremental financing law.

The substitute amendment authorizes a local legislative body to request a redetermination any time that a TID is in a decrement situation. Under the substitute amendment, a local legislative body’s ability to request redeterminations under the process created in the substitute amendment must be authorized in the TID’s project plan, and the JRB must approve the project plan but not each specific request for redetermination. The ability of a local legislative body to request multiple redeterminations also must be specifically authorized in the project plan. Under the substitute amendment, the \$1,000 fee to DOR would apply to each redetermination. The new provisions created in the substitute amendment for redetermining the base value of a TID in a decrement situation do not apply after December 31, 2018.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.1105 (2) (aj) of the statutes is amended to read:
2 66.1105 (2) (aj) “Decrement situation” means a situation in which the
3 aggregate value, as equalized by the department of revenue, of all taxable property
4 located within a tax incremental district on or about the date on which a resolution

1 is adopted under sub. (5) ~~(h) 1.~~ (j) 1. is at least 10 percent less than the current tax
2 incremental base of that district.

3 **SECTION 2.** 66.1105 (4m) (a) of the statutes is amended to read:

4 66.1105 **(4m)** (a) Any city that seeks to create a tax incremental district, amend
5 a project plan, ~~have a district's tax incremental base redetermined under sub. (5) (h),~~
6 or incur project costs as described in sub. (2) (f) 1. n. for an area that is outside of a
7 district's boundaries, shall convene a temporary joint review board under this
8 paragraph, or a standing joint review board under sub. (3) (g), to review the proposal.
9 Except as provided in par. (am) and (as), and subject to par. (ae), the board shall
10 consist of one representative chosen by the school district that has power to levy taxes
11 on the property within the tax incremental district, one representative chosen by the
12 technical college district that has power to levy taxes on the property within the tax
13 incremental district, one representative chosen by the county that has power to levy
14 taxes on the property within the tax incremental district, one representative chosen
15 by the city, and one public member. If more than one school district, more than one
16 union high school district, more than one elementary school district, more than one
17 technical college district or more than one county has the power to levy taxes on the
18 property within the tax incremental district, the unit in which is located property of
19 the tax incremental district that has the greatest value shall choose that
20 representative to the board. The public member and the board's chairperson shall
21 be selected by a majority of the other board members before the public hearing under
22 sub. (4) (a) or (h) 1. is held. All board members shall be appointed and the first board
23 meeting held within 14 days after the notice is published under sub. (4) (a) or (h) 1.
24 Additional meetings of the board shall be held upon the call of any member. The city
25 that seeks to create the tax incremental district, amend its project plan, ~~have a~~

1 ~~district's tax incremental base redetermined under sub. (5) (h),~~ or make or incur an
2 expenditure as described in sub. (2) (f) 1. n. for an area that is outside of a district's
3 boundaries shall provide administrative support for the board. By majority vote, the
4 board may disband following approval or rejection of the proposal, unless the board
5 is a standing board that is created by the city under sub. (3) (g).

6 **SECTION 3.** 66.1105 (4m) (b) 1. of the statutes is amended to read:

7 66.1105 (4m) (b) 1. The board shall review the public record, planning
8 documents and the resolution passed by the local legislative body or planning
9 commission under sub. (4) (gm) or (h) 1., ~~or sub. (5) (h) 1.~~ As part of its deliberations
10 the board may hold additional hearings on the proposal.

11 **SECTION 4.** 66.1105 (4m) (b) 2. of the statutes is amended to read:

12 66.1105 (4m) (b) 2. Except as provided in subd. 2m., no tax incremental district
13 may be created and no project plan may be amended unless the board approves the
14 resolution adopted under sub. (4) (gm) or (h) 1., ~~and no tax incremental base may be~~
15 ~~redetermined under sub. (5) (h) unless the board approves the resolution adopted~~
16 ~~under sub. (5) (h) 1.,~~ by a majority vote within 30 days after receiving the resolution.
17 With regard to a multijurisdictional tax incremental district created under this
18 section, each public member of a participating city must be part of the majority that
19 votes for approval of the resolution or the district may not be created. The board may
20 not approve the resolution under this subdivision unless the board's approval
21 contains a positive assertion that, in its judgment, the development described in the
22 documents the board has reviewed under subd. 1. would not occur without the
23 creation of a tax incremental district. The board may not approve the resolution
24 under this subdivision unless the board finds that, with regard to a tax incremental

1 district that is proposed to be created by a city under sub. (17) (a), such a district
2 would be the only existing district created under that subsection by that city.

3 **SECTION 5.** 66.1105 (5) (a) of the statutes is amended to read:

4 66.1105 (5) (a) Subject to sub. (8) (d), upon the creation of a tax incremental
5 district, upon adoption of any amendment subject to par. (c), or ~~upon the adoption and~~
6 ~~approval of a resolution under par. (h),~~ upon the adoption of a resolution under par.
7 (j) 1., its tax incremental base shall be determined or redetermined as soon as
8 reasonably possible. The department of revenue may impose a fee of \$1,000 on a city
9 to determine or redetermine the tax incremental base of a tax incremental district
10 under this subsection, except that if the redetermination is based on a single
11 amendment to a project plan that both adds and subtracts territory, the department
12 may impose a fee of \$2,000.

13 **SECTION 6.** 66.1105 (5) (h) of the statutes is repealed.

14 **SECTION 7.** 66.1105 (5) (i) of the statutes is repealed.

15 **SECTION 8.** 66.1105 (5) (j) of the statutes is created to read:

16 66.1105 (5) (j) 1. Subject to subd. 2., a local legislative body may adopt a
17 resolution requiring the department of revenue to redetermine the tax incremental
18 base of a district that is in a decrement situation.

19 2. A local legislative body may adopt a resolution under subd. 1. only if the
20 project plan authorizes, or is amended to authorize, the resolution. A local legislative
21 body may adopt multiple resolutions under subd. 1. only if the project plan or
22 amendment specifically authorizes multiple resolutions.

23 3. Upon adoption of a resolution by a local legislative body under subd. 1., the
24 department of revenue shall redetermine the tax incremental base of the district
25 under par. (a).

